

7100. Misbranding of Fruit-a-tives. U. S. * * * v. 79 Dozen Packages of Fruit-a-tives. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 9281. I. S. No. 12517-r. S. No. E-1102.)

On August 30, 1918, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel of information praying the seizure and condemnation of 79 dozen packages of Fruit-a-tives consigned on August 15, 1918, remaining unsold in the original unbroken packages at Boston, Mass., alleging that the article had been shipped by Fruitatives Limited, Ogdensburg, N. Y., and transported from the State of New York into the State of Massachusetts, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part, "'Fruit-a-tives' 'Fruit Liver Tablets.'"

Analysis of a sample of the article, made in the Bureau of Chemistry of this department, showed the pills to consist essentially of aloes, quinine, nux vomica, mydriatic alkaloids, and quassia. Citric and tartaric acids, indicative of fruit juices, were absent.

Misbranding of the article was alleged in the libel of information for the reason that the packages and labels thereof bore certain statements, designs, and devices regarding the article and the ingredients and substances contained therein, that is to say the word "'Fruit-a-tives' 'Fruit Liver Tablets,'" together with designs on the carton labeling, showing an apparatus receiving a number of different fruits and discharging apparently Fruit-a-tive Tablets, which said statements, designs, and devices were false and misleading in that they conveyed the impression that the laxative properties of the article were due to the presence of fruit or fruit extracts, when, in truth and in fact, said laxative properties were due to the presence of aloes and nux vomica in the article. Misbranding of the article was alleged in substance for the further reason that the packages and labels thereof bore certain statements regarding the curative and therapeutic effects of the article, that is to say, "Strengthens the Stomach and Liver, Tones up the Nervous System, Tones and Sweetens the Stomach, Relieves Headaches, Dizziness, Backache. Fruit-a-tives is an effective remedy * * * and has a distinctly remedial action on the stomach, liver, bowels, kidneys, skin, and nervous system. Fruit-a-tives is a remedy, treatment, or cure for indigestion, kidney irritation, skin diseases, headaches, backaches, sleeplessness, pelvic pains, nervous depression, blood impurities and catarrh," which said statements were false and fraudulent in that the article was incapable of producing the curative and therapeutic effects claimed for it.

On November 26, 1919, the Eastern Drug Co., Boston, Mass., claimant, having filed a good and sufficient bond in conformity with section 10 of the act, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be delivered to said claimant upon payment of the costs of the proceedings.

E. D. BALL,

Acting Secretary of Agriculture.